

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 30354 of 2003(L)

PETITIONER:

DR.T.V.PADMANABHAN S/O. LATE P.T.RAMAN
NAIR, HINDU, MEDICAL PRACTITIONER, RESIDING AT
VELLARIKKUNDU, PARAPPA VILLAGE, HOSDURG TALUK,
P.O.VELLARIKKUNDU, KASARAGOD DISTRICT

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS:

1. K.V.RAVEENDRAN, AGED 45 YEARS,
S/O. K.V.GOVINDAN, AGRICULTURIST.
2. K.V.HAREENDRAN, AGED 26 YEARS,
S/O. K.P.RAGHAVA PDIVAL, TAXI DRIVER.
3. P.V.SASIMOHAN, AGED 42 YEARS,
S/O. AMBUKKAN, BUSINESSMAN.
4. NAVVEN CHANDRAN, AGED 27 YEARS,
S/O. AMBILERI MADHAVI, TAXI DRIVER.
5. K.P. GANESHAN, AGED 30 YEARS,
S/O. PADMANABHAN, POLICE CONSTABLE.
ALL ARE RESIDING AT KOORANKUNDU, POST PLACHIKKARA,
WEST ELERI VILLAGE, HOSDURG.4

BY ADV. SRI.M.THAMBAN
SMT.T.SUDHAMANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WPC : 30354 OF 2003

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE ORDER IN IA NO.13 OF 2003 IN OS NO.476 OF 2000
ON THE FILE OF THE MUNSIFF'S COURT, HOSDURG DT.04.01.2003.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 30354 OF 2003

Dated this the 5th day of June, 2007

JUDGMENT

This Writ Petition under Article 227 of the Constitution is filed by the plaintiff in the suit impugning Ext.P1 order passed by the learned Munsiff in a suit for damages which was filed by him. Under Ext.P1 the learned Munsiff has dismissed the petitioner's application seeking permission of the court to examine an eye witness to the incident which constitutes integral part of the alleged cause of action. Learned Munsiff dismissed the IA on the ground of delay. The respondents 1 to 3 who are defendants 1 to 3 in the suit have been served with notice and they appear through counsel. The writ petition is posted today as defective on the reason that the service is not completed on 4th respondent. In find from the records that it is common contentions which were raised by all the four respondents before the court below. Thus in my view the respondents 1 to 3 are competent to represent the 4th respondent also and therefore it is declared that service on 4th respondent is not necessary. Counsel on either sides are absent, today one of the grounds raised is that there was no serious opposition to the IA filed by the petitioner. No counter affidavit has been filed so far. Even otherwise I feel that the learned Munsiff should not have dismissed the

IA on ground of delay. The IA could have been allowed on condition. Ext.P1 will accordingly stand set aside. The IA will stand allowed on condition that the petitioner will pay a sum of Rs.1,500/- to the respondents through their counsel appearing in this Court or the court below within three weeks of receiving copy of this judgment and on further condition that the petitioner will pay a sum of Rs.500/-, within the aforesaid time limit to the High Court Legal Services Committee against separate receipt. If payment is made as above, the IA will stand allowed. Failing payment as above, the IA will stand dismissed and the impugned order will stand confirmed.

PIUS C. KURIAKOSE, JUDGE

btt

